

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

KIP LAMAR SNELL,)
)
)
PLAINTIFF,)
)
VS.) CIVIL ACTION NO.:
) 1:07CV898-MHT
CITY OF SLOCUMB)
)
DEFENDANT.)

ANSWER TO COMPLAINT

Come now Defendant, CITY OF SLOCOMB, and for answer to Plaintiff's Complaint in the above styled cause, says as follows:

1. Defendant denies the allegations of paragraph one (numbered 1) of the Introduction of Plaintiff's Complaint and demand strict proof thereof.
2. The allegations of paragraph two (numbered 2) of the Plaintiff's Complaint do not appear to state a claim against the Defendant, but to the extent such allegations could be construed as stating any claim against the Defendant, they are denied.
3. The allegations of paragraph three (numbered 3) of the Plaintiff's Complaint do not appear to state a claim against the Defendant, but to the extent such allegations could be construed as stating any claim against the Defendant, they are denied.
4. Defendant lacks sufficient information to either admit or deny the allegations of paragraph four (numbered 4) of Plaintiff's Complaint.
5. Defendant admits the allegations of paragraph five (numbered 5) of the Plaintiff's Complaint.

COUNT I

6. Defendant denies the allegations of paragraph six (numbered 6) of Count I of the Plaintiff's Complaint and demands strict proof thereof.

7. Defendant denies the allegations of paragraph seven (numbered 7) of Count I of the Plaintiff's Complaint and demands strict proof thereof.

8. Defendant denies the allegations of paragraph eight (numbered 8) of Count I of the Plaintiff's Complaint and demands strict proof thereof.

9. Defendant denies the allegations of paragraph nine (numbered 9) of Count I of the Plaintiff's Complaint and demands strict proof thereof.

10. Defendant denies the allegations of paragraph ten (numbered 10) of Count I of the Plaintiff's Complaint and demands strict proof thereof.

11. Defendant denies the allegations of paragraph eleven (numbered 11) of Count I of the Plaintiff's Complaint and demands strict proof thereof.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint fails to state a claim against Defendant upon which relief can be granted.

SECOND DEFENSE

The Defendant denies it is guilty of any of the claims which are alleged and claimed in the Plaintiff's Complaint and further claims that it is in no way guilty of violating the Fair Labor Standards Act of 1938.

THIRD DEFENSE

The Defendant pleads that the Plaintiff met the qualifications as being exempt under the Fair Labor Standards Act.

FOURTH DEFENSE

The Defendant pleads that the Plaintiff has failed to exhaust all contractual or administrative remedies.

FIFTH DEFENSE

The Defendant pleads the affirmative defense of immunity.

SIXTH DEFENSE

Defendant affirmatively pleads any of the following defenses which may be applicable in this case: fraud, duress, misrepresentation, mistake, mistake of law, mutual mistake of fact, illegality, undue influence, unconscionability, laches, Statute of Frauds, Statute of Limitations and/or accident.

SEVENTH DEFENSE

These Defendant avers that no action or lack of action on the part of Defendant, nor any of its agents or employees caused any damages for which the Plaintiff brings this suit.

EIGHTH DEFENSE

These Defendants assert the defenses which are accorded to municipalities as set forth in §11-47-23 and §11-47-192, Code of Alabama (1975).

NINTH DEFENSE

Imposition of punitive damages in this action against these Defendants without a statutory limit as to the amount of said damages violates the Due Process Clause and these Defendants' guarantee of equal protection as required by the United States Constitution.

TENTH DEFENSE

Defendants affirmatively plead any other matter constituting an affirmative defense that may be applicable in this case.

ELEVENTH DEFENSE

Defendants reserve the right to amend this answer pending additional investigation and/or discovery.

Dated this the 29th day of October, 2007.

/s/ Steadman S. Shealy, Jr._____

Steadman S. Shealy, Jr. (SHE023)
ASB 2193-Y88S
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City of Slocomb

OF COUNSEL:
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CERTIFICATE OF SERVICE

I hereby certify that I have this day mailed a copy of the foregoing, properly addressed and postage prepaid, to:

Elizabeth B. Glasgow
Farmer, Price, Hornsby & Weatherford, LLP
100 Adris Place
P.O. Box 2228
Dothan, AL 36302

H. Samuel Prim III
Prim, Freeman and Mendheim, LLC
P.O. Box 2147
207 West Adams St.
Dothan, AL 36302

This the 29th day of October, 2007.

/s/ Steadman S. Shealy, Jr.